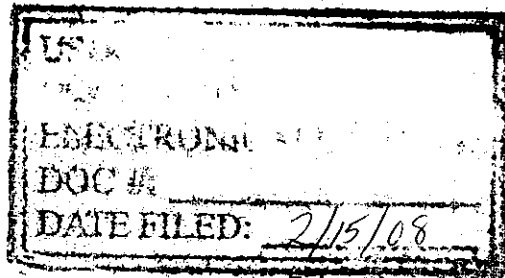


DISTRICT ATTORNEY

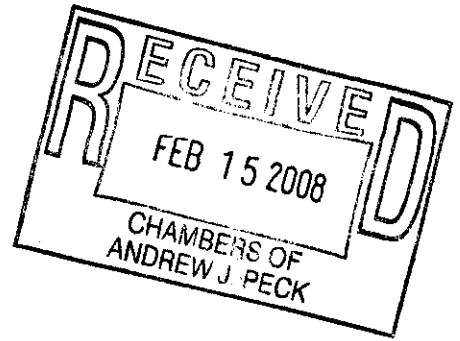
OF THE
COUNTY OF NEW YORK
ONE HOGAN PLACE
New York, N. Y. 10013
(212) 335-9000



ROBERT M. MORGENTHAU
DISTRICT ATTORNEY



February 15, 2008



BY HAND

Honorable Andrew J. Peck
United States Magistrate Judge
Southern District of New York
United States Courthouse
500 Pearl Street, Room 1370
New York, New York 10007

MEMO ENDORSED 2/15/08

APPROVED.

SO ORDERED

Hon. Andrew Jay Peck
United States Magistrate Judge

Re: Wells v. Ricks
07 Civ. 6982 (CM) (AJP)

Your Honor:

Under an agreement with the New York State Attorney General's office, the District Attorney, New York County is representing the interests of the Respondent in the above-captioned matter, a 28 U.S.C. section 2254 proceeding. The District Attorney has already filed its response to Petitioner's habeas corpus petition, and pursuant to a January 23, 2008 order by this Court, a reconstruction hearing will be held on February 21, 2008 at 9:30 a.m. in Courtroom 20D of 500 Pearl Street.

The purpose of this letter is to inform the Court that Petitioner and Respondent have agreed to the following terms and conditions of the reconstruction hearing, subject to Your Honor's approval.

The hearing will proceed as follows. ADA Eric Rosen will call to testify the two prosecutors who conducted Petitioner's 2001 trial in Supreme Court, New York County. ADA Amy Schwartz will testify first, and she will be followed by ADA Bonnie Sard. When each witness is called, Petitioner's counsel will have an opportunity to conduct cross-examination following direct examination. Each party will also then have the opportunity for re-direct and re-cross examination.

BY FAX

DISTRICT ATTORNEY COUNTY OF NEW YORK

Hon. Andrew J. Peck

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February 15, 2008

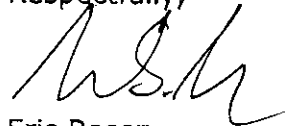
Petitioner's counsel requests the opportunity to call rebuttal witnesses after the prosecution witnesses testify, should that be necessary. The parties also request the opportunity to make brief closing remarks. Lastly, Respondent will provide color copies of ADA Schwartz's and ADA Sard's voir dire notes taken during Petitioner's trial both to the Court and opposing counsel. The parties stipulate to the admission of these notes, as well as the voir dire portion of the trial transcript, into evidence at the hearing.

Relatedly, Petitioner's counsel will be responsible for securing Petitioner's presence -- via video link -- at the hearing. If necessary, ADA Rosen will help arrange the video link with Petitioner's prison.

The parties hereby ask this Court to approve the aforementioned terms and conditions of the reconstruction hearing.

I certify that a copy of this letter is being mailed to Judge McMahon, Petitioner, and Petitioner's counsel at the addresses below.

Respectfully,



Eric Rosen
Assistant District Attorney
(212) 335-9328
(212) 335-9288 (FAX)



Kelly Anne Librera
DEWEY AND LeBOEUF

cc: Terence Wells

Richard Shutran
Kelly Anne Librera
Lisa M. Card
DEWEY & LEBOEUF LLP
1301 Avenue of the Americas
New York, NY 10019

DISTRICT ATTORNEY COUNTY OF NEW YORK

Hon. Andrew J. Peck

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February 15, 2008

Honorable Colleen McMahon
United States District Court Judge
Southern District of New York
United States Courthouse
500 Pearl Street, Room 640
New York, New York 10007

FAX TRANSMITTAL SHEET



**ANDREW J. PECK
UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT**

Southern District of New York
United States Courthouse
500 Pearl Street, Room 1370
New York, N.Y. 10007-1312

Fax No.: (212) 805-7933
Telephone No.: (212) 805-0036

Dated: February 15, 2008

Total Number of Pages: 4

TO	FAX NUMBER
Eric Rosen, Esq.	212-335-9288
Kelly Anne Librera, Esq. Lisa Marie Card, Esq. Richard Shutran, Esq.	212-259-6333
Richard M. Greenberg, Esq. Sara Gurwitch, Esq.	212-402-4199

TRANSCRIPTION:

MEMO ENDORSED 2/15/08

Approved.

Copy to: Judge Colleen McMahon